



Commission on Peace Officer Standards and Training

1601 Alhambra Blvd
Sacramento, CA 95816-7083
www.post.ca.gov

Date: June 27, 2008

Bulletin: No. 2008-07

Subject: Notice of Proposed Regulatory Action – Hate Crimes, Regulation 1081

The passage of Senate Bill 1234 (Kuehl) in 2004 added topics to be addressed in POST hate crimes training. Senate Bill 1234 also expanded the POST guidelines requirement to include a framework and content of a general order or other formal policy on hate crimes that each state law-enforcement agency shall adopt. The legislation also requires POST to encourage all local law enforcement agencies to adopt the framework and general policy.

This proposal addresses only the framework and general order/policy requirements for developing hate crime guidelines. At its January 2008 meeting, the Commission approved the proposal to adopt the new *Hate Crimes Policy Guidelines* document, subject to successful completion of the rulemaking process.

The attached notice describes the proposed changes and includes an invitation for written input on this proposal, the deadline for written comments, and information for requesting a public hearing. The following related information is available on the POST website at www.post.ca.gov/RegulationNotices/RegulationNotices.asp:

- POST Bulletin and Notice of Proposed Regulatory Action
- Text of Proposed Regulatory Action
- Initial Statement of Reasons

Please direct inquiries about this proposed regulatory action to Dave Spisak, Commission on POST, 1601 Alhambra Boulevard, Sacramento, CA 95816-7083, by email at Dave.Spisak@post.ca.gov, by telephone at 916.227.0539, or by FAX at 916.227.5271. D'Karla Leach is the back-up contact person for this proposal. D'Karla is available by telephone at 916.227.3912, or by email at DKarla.Leach@post.ca.gov.

PAUL A. CAPPITELLI
Executive Director

Attachment: Notice of Proposed Regulatory Action

NOTICE OF PROPOSED REGULATORY ACTION

Hates Crimes Framework and Policy, Regulation 1081

Notice is hereby given that the Commission on Peace Officer Standards and Training (POST) proposes to amend regulations in Chapter 2 of Title 11 of the California Code of Regulations as described below in the Informative Digest. A public hearing is not scheduled. Pursuant to Government Code §11346.8, any interested person, or his/her duly authorized representative, may request a public hearing. POST must receive the written request no later than 15 days prior to the close of the public comment period.

Public Comments Due by August 11, 2008, at 5:00 PM

Notice is also given that any interested person, or authorized representative, may submit written comments relevant to the proposed regulatory action by FAX at 916.227.5271 or by letter to the:

Commission on POST
Attention: Dave Spisak
1601 Alhambra Boulevard
Sacramento, CA 95816-7083

Following the close of the public comment period, the Commission may adopt the proposal substantially as described below or may modify the original proposal with sufficiently related changes. With the exception of technical or grammatical changes, the full text of a modified proposal will be available for 15 days prior to its adoption from the person designated in this notice as the contact person. The Commission will also mail the full text to persons who submit written comments related to the proposal or who have requested notification of any changes to the proposal.

Authority and Reference

This proposal is made pursuant to the authority vested by Penal Code §13503 – POST powers and §13506 - POST authority to adopt regulations. This proposal is intended to interpret, implement, and make specific Penal Code §13503 (e) which authorizes POST to develop and implement programs to increase the effectiveness of law enforcement, including programs involving training and education courses; and Penal Code §13519.6 which gives POST the authority to develop guidelines and a course of instruction and training that addresses hate crimes, for law enforcement officers - both in-service and basic trainees.

Informative Digest/Policy Statement Overview

Penal Code §13519.6 requires that POST develop guidelines and a course of instruction and training for law enforcement officers who are employed as peace officers or who are enrolled in a training academy for law enforcement officers. The passage of Senate Bill 1234 (Kuehl) in 2004 added topics to be addressed in POST hate crimes training. The bill also expanded the POST-developed guidelines requirement to include a framework and possible content of a general order/policy on hate crimes that each state law-enforcement agency shall adopt. It also requires POST to encourage local law enforcement agencies to adopt the framework and general policy and includes a July 1, 2007, implementation date.

This proposal addresses only the framework and general order/policy requirements for developing hate crime guidelines.

In 2004, an ensemble of subject matter experts made up of law enforcement and community organizations developed the *2004 Draft Hate Crime Policy and Training Guidelines*. Because the initial draft of the policy guidelines document has received limited attention since 2004, POST conducted an internal review, in the second quarter of 2007, of the policy guidelines to ensure compliance with the mandate. Then, in late July 2007, a subject matter expert (SME) group convened to finalize the draft document created in 2004. The SME group also closely examined the model policy on hate crimes enforcement

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Hates Crimes Framework and Policy, Regulation 1081

created by the International Association of Chiefs of Police (IACP). Subsequently, the SMEs modified the IACP model policy to reflect California laws and protocols and incorporated it into the *Hate Crimes Policy Guidelines* for use by California law enforcement.

The proposed *Hate Crimes Policy Guidelines* includes the seven hate crimes guidelines, the message from the agency chief executive, and the model policy framework. Topics in the framework document include the purpose, Policy; Definitions and Laws; Response and Reporting Procedures - First Response Procedures, and Supervisory and Investigative Responsibilities; Training Resources; and Planning and Prevention.

At its January 2008 meeting, the Commission approved the proposal to adopt the new guidelines, subject to successful completion of the rulemaking process. Adoption of the new guideline requirements in POST regulations will comply with the legislative mandate to provide resources to local law enforcement for adopting a framework and general order/policy document that addresses the topic of hate crimes. The law requires each state law enforcement agency to adopt such policies and to have in place a model standard in managing hate crimes with regard to response, reporting, training, planning, and prevention. Local law enforcement agencies will be encouraged to create or revise policies to mirror the POST framework for hate crime policies. The reference to the *Hate Crimes Policy Guidelines* and the requirement for every state local law enforcement department to a framework and formal policy will appear in Regulation 1081, Legislatively-Mandated Training.

Local Mandate

This proposal does not impose a mandate on local agencies or school districts.

Fiscal Impact Estimates

This proposal does not impose costs on any local agency or school district for which reimbursement would be required pursuant to Part 7 (commencing with §17500) of the Government Code, Division 4. This proposal does not impose other nondiscretionary cost or savings on local agencies. This proposal does not result in any cost or savings in federal funding to the state.

Costs or Savings to State Agencies

POST anticipates no additional costs or savings to state agencies.

Business Impact/Small Businesses

The Commission has made an initial determination that this regulatory proposal would have no significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states. The proposal does not affect small businesses as defined by Government Code §11342.610 because the Commission sets selection and training standards for law enforcement and does not have an impact on California businesses, including small businesses.

Assessment Regarding Effect on Jobs/Businesses

The Commission has determined that this regulatory proposal will not have any impact on the creation or elimination of jobs and will not result in the elimination of existing businesses or the creation or expansion of businesses in the State of California.

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Cost Impacts on Representative Private Persons or Businesses

The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs

None

Alternatives

The Commission must determine that no reasonable alternative considered by the agency, or otherwise identified and brought to the agency's attention, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective as, and less burdensome to, affected private persons than the proposed action.

Contact Persons

Please direct inquiries or written comments about the proposed regulatory action to the following:

Dave Spisak
Commission on POST
1601 Alhambra Boulevard
Sacramento, CA 95816-7083
916.227.0539 or Dave.Spisak@post.ca.gov
916.227.5271 (FAX)

or D'Karla Leach
Commission on POST
1601 Alhambra Boulevard
Sacramento, CA 95816-7083
916.227.3912 or DKarla.Leach@post.ca.gov

Text of Proposal

Individuals may request copies of the exact language of the proposed regulations, the Initial Statement of Reasons, and the information the proposal is based upon, from the Commission on POST at 1601 Alhambra Boulevard, Sacramento, CA 95816. These documents are also located on the POST website at: <http://www.post.ca.gov/RegulationNotices/RegulationNotices.asp>.

Availability and Location of the Rulemaking File and the Final Statement of Reasons

The rulemaking file contains all information upon which POST is basing this proposal and is available for public inspection by contacting the person(s) named above. To request a copy of the Final Statement of Reasons once it has been prepared, submit a written request to the contact person(s) name above.